IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5:18-CV-240-FL

RAEIS CONSTRUCTORS, LLC,)	
Plaintiff,)	
v.)	ORDER
CIRCLE K STORES, INC.,)	ORDER
Defendant.)	

This matter is before the court on defendant's motion to dismiss (DE 20) and plaintiff's motion to amend complaint (DE 28). Plaintiff responded in opposition to the motion to dismiss, proposing an amended complaint. Plaintiff notes that defendant opposes the motion to amend. In this posture the issues raised are ripe for ruling.

Where "[t]he court should freely give leave [to amend] when justice so requires," Fed. R. Civ. P. 15(a)(2), and where there has been no demonstration of prejudice, bad faith, or futility, the court GRANTS plaintiff's motion (DE 28) to amend for good cause shown. Plaintiff is DIRECTED to file the proposed third amended complaint within **5 days** of the date of this order. Where the amended complaint supersedes the original complaint that was subject of defendant's motion to dismiss, said motion (DE 20) is DENIED AS MOOT.

SO ORDERED, this the 17th day of January, 2019.

LOUISE W. FLANAGAN United States District Judge